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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BOZENA ERDMANN, ARMAND MICHEL MARIE LELKENS, and OLIVER SCHREYER

Appeal 2016-003049
Application 12/600,024
Technology Center 2100

Before ROBERT E. NAPPI, CATHERINE SHIANG, and TERRENCE W. MCMILLIN, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–12 and 14–18, which are all the claims pending and rejected in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Introduction

According to the Specification, the present invention relates to a compiler. *See generally* Spec. 1. Claim 1 is exemplary:

> 1. A building automation network control processor for compiling information from a building automation networked

control system including a plurality of connected building devices, the building automation network control processor comprising:

the building automation network control processor configured for partitioning a control logic into a plurality of functional control logic programs, wherein the control logic describes the operation of one or more of the plurality of connected building devices and wherein the functional control logic programs are portions of the control logic relating to a function or types of building devices, translating the plurality of functional control logic programs into a plurality of executable codes and

assigning the plurality of executable codes according to a placing rule to specified building devices of the plurality of building devices.

References and Rejections

Claims 1, 2, 4, 7–9, 11, 12, 14–18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vahid (US 2006/0095893 A1; May 4, 2006) and Hunt (US 6,983,463 B1; Jan. 3, 2006).

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Vahid, Hunt, and Tondreau (US 2005/0039173 A1; Feb. 17, 2005).

Claims 5 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vahid, Hunt, and Ouksel (US 2009/0055691 A1; Feb. 26, 2009).

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Vahid, Hunt, Tondreau, and Ouksel.

ANALYSIS

On this record, the Examiner did not err in rejecting claim 1.

We disagree with Appellants' arguments, and agree with and adopt the Examiner's findings and conclusions in (i) the action from which this appeal is taken and (ii) the Answer to the extent they are consistent with our analysis below.[1]

Appellants contend Vahid does not teach

> partitioning a control logic into a plurality of functional control logic programs, wherein the control logic describes the operation of one or more of the plurality of connected building devices and wherein the functional control logic programs are portions of the control logic relating to a function or types of building devices,

as recited in claim 1. *See* App. Br. 9–12; Reply Br. 4–6. In particular, Appellants assert Vahid's paragraphs 22 and 114 and Figure 14 do not teach the disputed claim limitation. *See* App. Br. 9–12; Reply Br. 4–6.

Appellants have not persuaded us of error. In response to Appellants' arguments, the Examiner further cites Vahid's paragraphs 108–113, 115–124 and Figures 12 and 13, and provides further findings that Vahid teaches the disputed claim limitation. *See* Final Act. 18–19; Ans. 19.[2] For example, the Examiner finds "[paragraphs] 108-124 discuss[] partitioning of the user-designed control logic in more detail." Final Act. 19. Appellants fail to critique the additionally cited Vahid portions, and fail to persuasively

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[1] To the extent Appellants advance new arguments in the Reply Brief without showing good cause, Appellants have waived such arguments. *See* 37 C.F.R. § 41.41(b)(2).

[2] The Specification explains: "The term 'device' may mean herein any device or node of the networked control system"; and "[t]he term 'control logic' may define a device independent program which describes the runtime behaviour of one or a plurality of the devices. The control logic may basically consist of operations on the state variables formulated in a programming language." Spec. 2–3.

respond to the Examiner's further findings. Therefore, Appellants fail to show error in the Examiner's findings. *See In re Baxter Travenol Labs.*, 952 F.2d 388, 391 (Fed. Cir. 1991) ("It is not the function of this court [or this Board] to examine the claims in greater detail than argued by an appellant, looking for [patentable] distinctions over the prior art.").

Further, while Appellants cite the first sentence of Vahid's paragraph 14 about "stand-alone modules or blocks" (Reply Br. 4, 6), that same paragraph goes on to explain:

> The present invention also provides methods for creating such monitor/control systems, including methods utilizing simulation and synthesis tools that enable a user to specify a network using pre-defined blocks (representing a behavioral description) and to simulate that network to verify correct behavior, and that automatically synthesize an optimized network using programmable blocks with automatically generated software.

Vahid ¶ 14.

Appellants also cite a portion of the first sentence of Vahid's paragraph 16, but the complete sentence states: "*In one aspect,* the present invention provides standalone modules, or blocks, that enable regular people, having no electronics or programming experience, to construct basic but useful customized sensor-based systems." Vahid ¶ 16 (emphasis added). In any event, Appellants have not persuasively shown how Appellants' selective citation of certain Vahid excerpts lead to the argued conclusion:

> Vahid does not partition a control logic into a plurality of functional control logic programs but instead partitions some form of executable code that represents a stand-alone module. Moreover, there is no teaching in Vahid to translate the plurality of functional control logic programs into a plurality of executable codes, as there is apparently no need to do so as they

> are already standalone modules for use in the sensor-based system.

Reply Br. 6.

For example, Appellants' above assertion (Reply Br. 6) contradicts Vahid's paragraphs 108—cited by the Examiner and ignored by Appellants:

> After completing a design . . . *[t]he design is passed* from the design simulator 20 *into the partitioning tool 32*, which produces a list of one or more partitions . . . . *Each partition is subsequently passed to the code generation tool 34, where* the interaction between the partition's inputs and component blocks is *translated into sequential code that can run on a programmable block.*

Vahid ¶ 108 (emphases added).

In the Reply Brief and for the first time, Appellants belatedly argue Hunt does not teach (i) "assigning . . . according to a placing rule," as recited in claim 1, and (ii) the claim limitation of claim 2. *See* Reply Br. 6–9. Appellants have waived such arguments because they are untimely, and Appellants have not demonstrated any "good cause" for the belated presentation. *See* 37 C.F.R. § 41.41(b)(2) (2012).

Because Appellants have not persuaded us the Examiner erred, we sustain the Examiner's rejection of claim 1.

For similar reasons, we sustain the Examiner's rejection of independent claims 14 and 18.

Regarding independent claims 12 and 17, Appellants advance the arguments discussed above with respect to claim 1. *See* App. Br. 7, 12. Appellants' arguments are not commensurate with the scope of the claims, as Appellants fail to show claims 12 and 17 include the disputed claim limitations of claim 1. In any event, as discussed above with respect to

claim 1, Appellants fail to show the Examiner erred. Therefore, we sustain the Examiner's rejection of independent claims 12 and 17.

We also sustain the Examiner's rejection of corresponding dependent claims 2–11, 15, and 16, which Appellants do not separately argue with substantive contentions.

DECISION

We affirm the Examiner's decision rejecting claims 1–12 and 14–18.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED